

U.S. ELECTION ASSISTANCE COMMISSION

Request For Substantive Comments on Procedural Manual For The Election Assistance Commission's Voting System Testing and Certification Program; Proposed Information Collection: Request for Comments on Information Collection Burden; U.S. EAC Voting System Testing and Certification Program.

AGENCY: United States Election Assistance Commission (EAC).

ACTION: NOTICE.

SUMMARY: The EAC has drafted a procedural manual for its Voting System Testing and Certification Program. This program sets administrative procedures for obtaining an EAC Certification for voting systems. Participation in the program is strictly voluntary. The program is mandated by 42 U.S.C. §15371. The purpose of this notice is twofold: (1) to request public comment on the substantive aspects of the program and (2) to request public comment on the proposed collection of information pursuant to the emergency processing provisions of the Paperwork Reduction Act as submitted to the Office of Management and Budget (OMB).

(1) SUBSTANTIVE COMMENTS: The EAC seeks substantive comments from the public on its proposed procedural manual. Please submit comments consistent with the information below. Comments should identify and cite the section of the manual at issue. Where a substantive issue is raised, please propose a recommended change or alternative policy. This publication and request for comment is not required under the rulemaking, adjudicative or licensing provisions of the Administrative Procedures Act (APA). It is a voluntary effort by the EAC to gather input from the public on the EAC's administrative procedures for certifying or decertifying voting systems. Furthermore, this request by the

EAC for public comment is not intended to make any of the APA's rulemaking provisions applicable to development of this or future EAC procedural programs.

DATES (Comments): Submit written or electronic comments on this draft procedural manual on or before 5:00 p.m. EDT on October 31, 2006.

ADDRESSES: Submit comments on-line on EAC's website: <http://www.eac.gov>; via mail to Brian Hancock, Director of Voting System Certification, U.S. Election Assistance Commission, 1225 New York Avenue, Suite 1100, Washington, D.C. 20005; or via fax to 202-566-1392. An electronic copy of the proposed guidance may be found on the EAC's web site <http://www.eac.gov>.

FOR FURTHER INFORMATION CONTACT: Brian Hancock, Director of Voting System Certification, 1225 New York Avenue, Suite 1100, Washington, D.C., (202)566-3100, Fax: (202)566-1392.

(2) COMMENTS ON THE PROPOSED COLLECTION OF INFORMATION: In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the EAC is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be

collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

The EAC is requesting an emergency review of the information collection referenced below. In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, we have submitted to the Office of Management and Budget (OMB) the following requirements for emergency review. The EAC is requesting an emergency review because the collection of this information is needed before the expiration of the normal time limits under OMB's regulations at 5 CFR Part 1320(a)(2)(ii). The information collection at issue is necessary in order to provide for the certification of voting systems as mandated by the Help America Vote Act of 2002 (42 U.S.C. §15371). The EAC cannot reasonably comply with the normal clearance procedures because failure to implement this program in an expedited fashion is reasonably likely to result in a public harm, as stated in 5 CFR 1320.13(a)(2)(i).

Approval of this emergency collection is essential in order to comply with Help America Vote Act of 2002 (42 U.S.C. §15371). HAVA requires that the EAC certify and decertify voting systems. Section 231(a)(1) of HAVA specifically requires the EAC to "... provide for the certification, de-certification and re-certification of voting system hardware and software...." This mandate represents the first time the Federal government will provide for the voluntary testing and certification of voting systems, nationwide. In response to this HAVA requirement, the EAC is developing the Voting System Testing and Certification Program. This program requires the submission and retention of information related to voting systems and voting system manufacturers.

Until recently, national voting system certification was conducted by a private membership organization, the National Association of State Election Directors (NASED). NASED certified voting systems for over a decade, using standards issued by the Federal government. The organization terminated its certification efforts on July 10, 2006.

While the EAC and NASED have worked together to provide for the certification of emergency modifications necessary to properly field voting systems for the 2006 General Election, there is presently no mechanism in place to test and certify new systems or to process modifications for the 2008 Federal elections. Given the fact that (1) it can take years to develop, test, certify, sell and field a new or modified voting system, and (2) a large volume of voting systems (new, existing and modified) are expected to be submitted to the EAC upon initiation of the new Certification Program, it is imperative that the EAC's Voting System Testing and Certification Program begin on the earliest possible date. The 2008 Federal elections are less than 2 years away. Ensuring that certified voting systems are available for the 2008 Election Cycle is essential to the public welfare.

1. Type of Information Collection Request: New collection;
2. Title of Information Collection: EAC Voting System Testing and Certification Program Manual;
3. Use: HAVA requires that the EAC certify and decertify voting systems (42 U.S.C. §15371). Section 231(a)(1) of HAVA specifically requires the EAC to "... provide for the certification, de-certification and re-certification of voting system hardware and software by accredited laboratories." The EAC will perform this mandated function through the use of its Voting System Testing

and Certification Program. Voting systems certified by the EAC will be used by citizens to cast votes in Federal Elections. Therefore, it is paramount that the program operates in a reliable and effective manner. In order to certify a voting system, it is necessary for the EAC to (1) require voting system manufacturers to submit information about their organization and the voting systems they submit for testing and certification; (2) require voting system manufacturers to retain voting system technical and test records; and (3) to provide a mechanism for election officials to report events which may effect a voting system's certification.

4. Form Numbers: EAC-001C, 002C and 003C.
5. Frequency: Voluntary Reporting – (1) *Manufacturer Registration Form*: one time when a manufacturer registers for the program, (2) *Voting System Certification Application Form*: as needed, when a manufacturer submits a voting system for testing and certification, and (3) *Field Anomaly Reporting Form*: as needed, when an election official voluntarily notifies the EAC of a witnessed voting system anomaly.
6. Affected Public: Business or other for-profit institutions and state and local election officials;
7. Number of Respondents: 94 annually;
8. Total Annual Responses: 99 annually;
9. Total Annual Hours: 119 hours, annually.

EAC is requesting OMB review and approval of this collection by

November 30, 2006, with a 180-day approval period. Written comments and recommendations will be considered from the public if received by the individuals designated below by October 31, 2006.

To obtain copies of the supporting statement, the Voting System Testing and Certification Program Manual or EAC forms referenced above, access the EAC Web Site at www.eac.gov or mail your request, including your address, phone number, to Director of Voting System Certification, U.S. Election Assistance Commission, 1225 New York Avenue, Suite 1100, Washington, D.C. 20005; or fax the EAC Director of Voting System Certification at 202-566-1392.

Interested persons are invited to send comments regarding the burden or any other aspect of these collections of information requirements. However, as noted above, comments on these information collection and recordkeeping requirements must be mailed and/or faxed to the designees referenced below by October 31, 2006:

OMB Reviewer: Alexander T. Hunt
Office of Management and Budget, Room 10235
New Executive Office Building
Washington, DC 20503, (202) 395-7316.